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| Advisory Action After the Filing of an Appeal Brief | Application No. 09/990,039 Examiner PELING A. SHAW | Applicant(s) GRUNDSTROM, MIKA Art Unit 2444 |
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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 10 July 2009 is acknowledged.

1. The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

- The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).
- The affidavit or other evidence is not timely filed before the filing of an appeal brief. See 37 CFR 41.33(d)(2).

2. The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. Other: as per Decision section, i.e. on pages 23 through 25 of Decision on Appeal 2008-002152, applicant is asked to address the new ground of rejection on claim 112 under 35 U.S.C. § 112, second paragraph before final disposition on claim 112. Applicant has amended the claim set substantially beyond as presented for the Decision, i.e. not proper under 37 CFR § 1.111 replay to address the new grounds of rejection. Thus is a non-compliant (see corresponding PTO-324 form with paper number 20090720) response (amendment) to the Decision.

/Peling A Shaw/
Examiner, Art Unit 2444